

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

LARRY T. THOMPSON,

Plaintiff,
vs.

F/V CHAMP (o/n 291117) its engine,
tackle, gear, equipment and
appurtenances, *In Rem*, and
DEBTORS, COREY POTTER and
MAYBE MARTINEZ, *In Personam*,

Defendants.

Case No. 3:10-cv-00202-HRH-JDR

**ORDER GRANTING MOTION FOR
ORDER OF SALE AND MOTION
FOR EXPEDITED CONSIDERATION**

(Docket Nos. 44 & 46)

THIS MATTER having come before the Court and the Court having reviewed the pleadings on file in this matter, including the Verified Complaint of Plaintiff, Larry T. Thompson, the Clerk of Court's Entry of Default at Docket 39 and the Court's Entry of Default Judgment *In Rem* at Docket 43 and noting that the Defendant Vessel has not appeared, answered or otherwise defended or responded to this action, that persons entitled to possession or claims of interest under Supplemental Rule C(6) had until July 5, 2011 to file a statement of interest and no such statements were filed, and it is admitted that Plaintiff holds a valid Preferred Ship Mortgage on the Vessel Champ, Official Number 291117, her engines, tackle,

gear, equipment and appurtenances, and that the terms of the Preferred Ship Mortgage allow for the sale of the vessel now, therefore, it is

ORDERED that Plaintiff's Motion at Docket 46 for the Motion for Order of Sale to be considered on shortened time is HEREBY GRANTED, in light of the facts noted above, the failure of the defendant vessel to appear, the fact that no persons have filed a claim of interest, and the fact that the Court has entered Default and Default Judgment *In Rem*, and in consideration of the requirements for publication and the date selected for the sale of the vessel; it is further

ORDERED that the Clerk of Court is directed to issue this order and writs of *Venditioni Exponas* to the United States Marshal directing the sale of the F/V CHAMP being sold at public auction to the highest bidder, said bidder to be eligible to own a documented vessel as provided by 46 U.S.C. § 31329 and a citizen of the United States; it is further

ORDERED that the defendant F/V CHAMP shall be sold at public auction, in a judicial sale, by the United States Marshal, as is, where is, free and clear of any claims, liens, maritime lien, rights *in rem*, rights of redemption, or encumbrances whatsoever, the sale starting at 10:00 a.m. on the 18th day of November 2011, at the United States Court House in Anchorage, Alaska, 222 West Seventh Avenue, at the Seventh Avenue entrance, in accordance with Local

Admiralty Rule (e)-14, Rule E(9)(b) of the Supplemental Rules, and 46 U.S.C. § 31329, *et seq.*; it is further

ORDERED that the sale is subject to confirmation by the Court; it is further

ORDERED that the United States Marshal provide notice of the sale by publication in newspapers of general circulation four (4) times on different days during not less than two weeks, with publication to be completed not less than five (5) calendar days prior to the date of sale and state whether written bids will be accepted in accordance with Local Admiralty Rule (e)-14(b)(1) and (2); it is further

ORDERED that the vessel custodian shall, during reasonable business hours, allow prospective bidders to board the vessel at the risk of such prospective bidders or their representatives; it is further

ORDERED that the U.S. Marshal is directed to acquaint prospective bidders with the provisions of this order of sale and to announce it at the time of sale; it is further

ORDERED that, in accordance with the terms of the Preferred Ship Mortgage, page 9, section 2.f., Plaintiff may bid in any amount owed to Plaintiff by an offset bid under the Mortgage; it is further

ORDERED that the United States Marshal, in accordance with Local Admiralty Rule (e)-14(c), is authorized to accept written sealed bids, any bidder

using this method must deliver the written sealed bid in time to be received by the United States Marshal in Anchorage, Alaska by 4:00 p.m. Anchorage time on the date preceding the sale, and, unless the bid is an offset bid under the paragraph above, the bidder must include with the written sealed bid by cash, cashier's check or certified check, the deposit amount set out in the following paragraph; it is further

ORDERED that the United States Marshal shall require cash or certified or cashier's check in the amount of ten percent (10%) of the bid at time of sale, the balance to be paid within seven (7) days, excluding Saturdays, Sundays and holidays in accordance with Local Admiralty Rule (e)-14(d) "provided that if an objection to the sale is filed within that seven-day period, the bidder is excused from paying the balance of the purchase price until seven (7) court days after the sale is confirmed"; it is further

ORDERED that the U.S. Marshal shall bring the proceeds of the sale into court and deposit the same with the clerk thereof, in order that a final decree of distribution can be made at a later time, pending further order of this Court; and, it is

ORDERED that costs and expenses related to the vessel's arrest, keeping, and sale are administrative costs and shall be paid first from the vessel's sale proceeds, subject to court approval, these costs and expenses including:

- a) the arrest and custodian expenses incurred by Plaintiff or his counsel to arrest and keep the vessel under arrest from the date of commencement of this action, to and including the date of confirmation of sale;
- b) costs of publication of the notice of the sale of the vessel; and
- c) any and all other custodial expenses of the F/V CHAMP incurred by or on behalf of either the Plaintiff or the United States Marshal subsequent to arrest, including custodial expenses incurred by any substitute custodian and custodial and sale expenses advanced by Plaintiff, and including any commission to the United States Marshal as provided by law, shall be deemed to be an administrative expense and shall be reimbursed out of the proceeds of the sale of the F/V CHAMP, subject to court approval.

IT IS SO ORDERED.

DATED this 20th day of October, 2011, at Anchorage, Alaska.

/s/ John D. Roberts
JOHN D. ROBERTS
United States Magistrate Judge